THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.7606 of 2003

ORDER:

This writ petition is filed seeking Mandamus declaring the action of the first respondent in issuing Form No.8 under Rule 52(11)(e) of the A.P. Cooperative Societies Rules, 1964 in E.P.No.25/2002-2003 dated 18.3.2003 in proposing to auction the petitioner's agricultural lands admeasuring Ac.12-34 guntas in Sy.Nos.303, 304 and 306 of Korpol village, Nekkonda mandal, Warangal district on 28.4.2003 as arbitrary and illegal.

It appears that the petitioner was the President of the second respondent society during the period 1987 to 1990 and in the enquiry conducted under Section 51 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'), it came to light that the petitioner has committed certain irregularities in misappropriation of funds of the society. Thereafter, on the basis of said enquiry, proceedings under Section 60(1) were initiated and surcharge proceedings were passed after hearing the petitioner. In execution of the surcharge proceedings, notice in E.P.No.25/2002-2003 was issued proposing to auction the lands of the petitioner. At that stage, the present writ petition is filed.

It is the case of the petitioner that he has remitted an amount of Rs.30,000/- against items of retention of cash balance as on 4.9.1988 and for the amounts specified against item Nos.2 to 8, he cannot be held responsible inasmuch as the enquiry officer has not taken into account the actual expenditure incurred against the said items. Without taking into consideration of the explanation submitted by the petitioner, surcharge proceedings were issued against the petitioner, but no action was taken for a long time. The petitioner was under the impression that the said proceedings were dropped. But, to his utter surprise, the impugned notice was issued suddenly.

Be that as it may, this Court, while admitting the writ petition on 25.4.2003, granted interim stay subject to the condition of petitioner depositing half of the amount awarded under the impugned notice.

According to the learned counsel for petitioner, the petitioner had already deposited the said amount.

In view of the fact that the petitioner has deposited the amount as directed by this Court, and there is an effective alternative remedy by way of filing appeal under Section 76 of the Act before the A.P. Cooperative Tribunal, the petitioner is directed to file appeal against the impugned notice within a period of four weeks from the date of receipt of a copy of this order. On filing such appeal, the Tribunal shall entertain the same without raising any objection as to limitation. However, if the petitioner has not deposited half of the amount as directed by this Court in W.P.M.P.No.9930 of 2003 dated 25.4.2003, he shall deposit the same while filing appeal before the Tribunal. Thus, the interim stay granted on 25.4.2003 shall continue during the pendency of appeal before the Tribunal, if any filed by the petitioner.

The writ petition is disposed of accordingly. There shall be no order as to costs.

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C.V.RAMULU, J

Date: 18.8.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

18.8.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.7606 of 2003

Dated: 18th August, 2006

Between:

B.Venkat Reddy

.. Petitioner

and

District Cooperative Central Bank Ltd.,
Warangal District at Subedari Hanamkonda,
Warangal district & others.

.. Respondents